

## **REMARKS**

In the present application, claims 29–50 are pending. Claims 47–50 are withdrawn. Claims 31–38 and 40 are allowed. Claims 51–53 have been added. Claims 30, 31 and 46 have been canceled. Therefore, claims 29, 32–45 and 51–53 remain at issue.

Applicants present amendments to the specification to correct typographical errors. No new matter is being presented through these amendments. Additionally, there is also support in the specification for new claims 51–53, in particular in Figures 3 and 4 and pages 8 and 11–13 of the specification.

In the Office Action, an abstract was requested. However, an abstract was presented in the preliminary amendment submitted on February 27, 2001.

### **Rejections under 35 U.S.C. 102(b)**

Claims 29-31, 39 and 41-46 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,540,737 to Fenn. In order for a reference to act as a §102 bar to patentability, the reference must teach each and every element of the claimed invention. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771 (Fed. Cir. 1983). Without the required teaching of “each and every element” as set forth in the claims, it is improper to continue such rejections under §102(b).

Claim 29 has been amended to include the limitations of allowed claim 31. As claim 31 was allowed, claim 29 should now be in condition for allowance. Furthermore, claims 32–45 and new claims 51 and 52 all depend from claim 29, and therefore, these claims should likewise be considered allowed. Applicants respectfully submit that Fenn does not teach, suggest or disclose the invention recited in the amended claims. Applicants’ claims are directed to a method of detecting abnormalities in bodily matter by applying electrical signals having a frequency greater than 4MHZ to the bodily matter. By contrast, Fenn discloses a non-invasive or minimally invasive hyperthermia

treatment of malignant tumors. Fenn features a hyperthermia applicator for inducing a temperature rise in a human female breast for treating carcinomas including a waveguide applicator having an aperture and an electric field radiator coupled to a source of electric field energy for producing electric field radiation output from the waveguide through the aperture (col. 2, lines 45–51). The electric field radiator includes a phased-array of electric field transmit elements, such as monopole antenna elements (col. 2, lines 60–62). The monopole antenna elements can resonate at between 800–1000MHz (col. 3, lines 16–18). This reading is well above and certainly distinguishable from the “greater than 4MHZ” cited in Applicants’ invention. Therefore, Fenn fails as anticipatory reference with respect to the amended claims.

### CONCLUSION

Applicants respectfully submit that claims 29, 32-45 and 51-53 are now in condition for allowance. The Commissioner is hereby authorized to charge any deficiency in fees to Deposit Account No. 23-0280.

Respectfully submitted,

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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with first class postage prepaid in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 16, 2004.

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